

STATEMENT ON BEHALF OF THE
MONTGOMERY COUNTY GOVERNMENT EMPLOYEES' ORGANIZATION,
A DIVISION OF UNITED FOOD AND COMMERCIAL
WORKERS, LOCAL 400

My name is William W. Thompson, II. I am a member of the law firm of Zwerdling, Paul, Leibig, Kahn & Thompson, P. C., and am here representing MCGEO-Local 400.

MCGEO-Local 400 is the incumbent employee organization representing approximately 3,500 County merit system employees pursuant to the County's present "meet and confer" employee relations procedure. On behalf of 2,300 Office, Professional, and Technical employees, and 1,200 Service, Labor, and Trades employees of the County, MCGEO-Local 400 has been at the forefront of the struggle to obtain a comprehensive and equitable collective bargaining law for merit system employees. This effort has culminated in the proposal which the Council has before it today.

MCGEO-Local 400 is proud of the central role it has played in the endeavor to obtain for merit system employees an effective share of the responsibility for determining their salaries and working conditions. This hearing marks a historic milestone in the road to full recognition by Montgomery County that its merit system employees deserve collective bargaining rights similar to those already accorded to almost all other employees of the County and its agencies.

However, the struggle is not over. The proposal Bill, as reported out of the Personnel Committee of the Council includes a number of provisions and "optional" provisions which seriously undermine the overall effectiveness of this legislation, should those provisions be included in the statute as passed by the full Council. We will briefly discuss the most important of these shortcomings in the time remaining. We will address these matters in the order that they appear in the proposed Bill.

First, the Bill, while making provision for two collective bargaining units, includes an option that one unit of all eligible merit system employees be created. MCGEO-Local 400 is uniquely qualified to comment on this issue, since we have been representing the two units - Service Labor and Trades, and Office Professional and Technical, under meet-and-confer. We strongly urge that the single-unit concept be rejected. The present unit structure was created by the County after extensive review of the natural and appropriate communities of interest among merit system employees. Service Labor and Trades employees have distinct needs and interest which should not be subsumed in a larger unit made up primarily of Office, Professional, and Technical employees. We believe the vast majority of both groups wish the units to remain as they now exist. We respectfully request that the Council adopt the two-unit structure as set forth in the principal body of the Bill.

Second, the Bill would exclude from coverage of collective bargaining rights many merit system personnel who are currently included in the meet-and-confer system. Among the employees to be excluded are all employees in the Department of Social Services (DSS) and all persons in Merit Grade 27 and above. The County's several hundred DSS employees are "hybrid" state-County employees. We do not believe that it is fair to deny these employees a voice in the determination of that portion of their salary which is set by the County. Bargaining over such a narrow question would not be disruptive or even significantly time-consuming in the context of the parties' overall relationship. DSS employees, who are principally female, should not be treated as second-class citizens.

The County administration has also sought to have all employees at Grade 27 and above, declared to be exempt from collective bargaining, apparently on the theory that they are, ipso facto, managers. MCGEO-Local 400 currently represents dozens of these employees under meet and confer. The County is thus contradicting its own earlier determination that many employees at Grade 27 and above have been appropriately included in the community of interest of the present meet-and-confer unit structure. One's salary level does not always correlate directly to whether one is a "manager." Many professional positions in the Grade 27 and above range have no supervisory or managerial role at all. Such non-managerial employees must not be denied the right to bargain.

Third, the principal text of the Bill permits a one-time opportunity for the incumbent meet-and-confer union to be recertified for collective bargaining upon written proof that more than 50% of the collective bargaining unit wish to be represented by it. Thus, when collective bargaining goes into effect, another election would not be necessary. However, an amendment would require MCGEO-Local 400 to go through the expensive and time-consuming process of another election. This proposed requirement is not necessary, especially in light of the fact that MCGEO-Local 400 just won an election in December in the SLT unit with 70% of the vote. We strongly oppose any automatic requirement for another election. We are prepared to prove to the County that a majority of the employees in both units wish to continue to be represented by MCGEO-Local 400 for collective bargaining purposes.

The Bill also proposes that 10% of the employees can petition to force an election rather than the utilization of the procedure for written proof of majority status. We are absolutely opposed to permitting 10% of any group to dictate to the majority how a determination of the incumbent's majority status will be made. We concede that if 30% of the employees in a unit wish to have an election rather than a card check when this law goes into effect, then an election would be appropriate. 30% is a significant proportion of the group. 10% is not. In most labor relations laws, including this Bill, 30% of the employees can petition for an election to decertify a union. We submit that the

same number should be required to force an election rather than a card check.

Fourth, we strongly support the provision of the Bill permitting the parties to bargain an agency shop. Agency shop would require nonmembers to pay a certain fee for representation by the certified representative, unless such a payment is objected to upon bona fide religious grounds. This provision represents the normal rule in most jurisdictions. We urge that the Council reject the options that either no agency shop is permissible, or that agency shop can only be applied to employees who have less than 10 years of service. A recognized employee organization is given the duty under the Bill to represent fairly and vigorously all unit employees, not just those who are members. Any union could well be crippled and rendered unable effectively to represent members or nonmembers if it received insufficient income to pay for the service representatives and professional assistance necessary to effectively do the job for 3,500 employees.

Fifth, the Bill limits bargaining over pensions only to any new "defined contribution" plan which might be promulgated by the County. We vehemently object to limiting bargaining of any new plan solely to a defined-contribution plan. What if the Council and the Administration seek to establish a new defined benefit, as opposed to defined contribution plan. There is no reason only to allow bargaining rights if a new defined contribution plan is enacted. Employees should have input into any new pension plans. There is no logic to this limitation in the Bill. Of course, we

are also absolutely opposed to the option attached to the Bill which would foreclose any pension bargaining whatsoever. Pension coverage is a major term and condition of employment and is bargained in almost every jurisdiction around the country.

Sixth, we absolutely support the provision of the Bill which permits the parties to bargain binding grievance arbitration. Grievance arbitration provides a relatively quick and inexpensive method for collective bargaining partners to ensure that their formal agreement is faithfully observed and implemented. Binding grievance arbitration is a hallmark of collective bargaining in both the public and private sectors. Without binding grievance arbitration, both the County and the employee organization could be subjected to endless contract litigation in the Courts. The option appended to the Bill which would limit binding arbitration only to disciplinary matters, would take away from the employees the primary method for enforcing contractual promises in collective bargaining. A contract without binding arbitration to enforce all of its provisions, is not a complete collective bargaining agreement.

Seventh, we strongly urge the Council to reject the bill's proposed limitation on the County's duty to bargain over the effects on employees of the exercise of nonbargainable management rights. Often, management decisions, such as the movement of a workplace from one area of the County to another, cause serious



effects on the employees, who, for instance, must report to work in Germantown rather than Bethesda. We believe that such effects as the transportation problems of affected employees must be bargained. The Bill would not permit such effects bargaining. The Bill would limit effects bargaining solely to the loss of a job position by a merit system employee. MCGEO-Local 400 urges the Council to adopt the proposed option, which is taken from the County's police bargaining bill, and which requires that all effects of the exercise of management rights be bargained. Such a provision does not in any way limit management's right to make management decisions. Such an approach is the rule in most jurisdictions.

Eighth, MCGEO-Local 400 submits that one of the principal shortcomings of the body of the Bill is its failure to provide for any collective bargaining agreement until July 1, 1987. If we assume that this law will go into effect sometime in mid-1986, it is absolutely unconscionable for the County to be able to delay its implementation for approximately a year. If the County has determined that public policy is served by granting collective bargaining to merit employees, then merit employees should be able to bargain. We support the Bill's option which would permit simplified bargaining for a short agreement on noneconomic items only. Such an agreement would only be in effect until July 1, 1987. This proposal meets any legitimate concerns that

bargaining would interfere with the budget cycle, since no monies would be spent by reason of the preliminary, short-term agreement. Furthermore, such a contract could serve to establish many of the more basic "standard" type contract clauses, so that bargaining for the first full-blown contract could proceed more efficiently. We respectfully request that the Council act decisively to grant the process of collective bargaining as well as the right of collective bargaining as soon as possible. There is no reason to have approximately a year in which the law provides a right without the ability to exercise that right.

Finally, we strongly urge that the meet-and-confer system be maintained and continued for all employees who now enjoy its benefits, but who are not included in the collective bargaining system. We have made our position clear that all meet-and-confer employees should also be included under collective bargaining. Should the Council choose otherwise, we urgently request that, at the very least, you not take away from these employees that right which they already have. Meet-and-confer does not require the County to sit down and come to an agreement regarding any employee concerns. Surely the County has nothing to lose by continuing to offer this group of employees at least a formal mechanism for conducting representative discussions with their employees.

In conclusion, MCGEO-Local 400 congratulates the Council and particularly Personnel Committee Chairperson Gelman and the other

members of that committee for having brought thus far an issue which is of enormous interest and importance to the County employees as well as the rest of the labor movement in this area.

We urge the Council to seriously consider the points that we have made and to further improve the Bill which is now before you. MCGEO-Local 400 looks forward eagerly to the early passage of this legislation, and to working with the Council and the Executive under this law in the years to come, to foster responsible and effective employee relations. We believe that the morale and high quality of service of County merit system employees can be considerably enhanced as a result of the recognition that employees are partners with the County in service to the public.

